

## Gateway Determination

**Planning proposal (Department Ref: PP\_201\_TWEED\_002\_00):** to amend the Tweed Local Environmental Plan (LEP) 2014 to prohibit water bottling facilities in the RU2 Rural Landscape zone.

I, the Executive Director, Regions at the Department of Planning and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Tweed Local Environmental Plan (LEP) 2014 to prohibit water bottling facilities in the RU2 Rural Landscape zone should proceed subject to the following conditions:

1. Prior to agency consultation and public exhibition, the planning proposal is to be amended as follows:
  - (a) provide a plain English explanation of the intent behind removing the enabling clause from the LEP;
  - (b) update references to state environmental planning policies;
  - (c) update references to the section of the *Environmental Planning and Assessment Act 1979* that relates to Ministerial Directions;
  - (d) include savings provisions to allow that development applications for water bottling facilities submitted prior to the proposed amendment to the Tweed LEP 2014 will be determined on their merit; and
  - (e) provide an updated Schedule 1 to Tweed LEP 2014 that includes existing approved water bottling facilities as additional permitted uses on the relevant land.
2. Public exhibition is required under section 3.34(2)(c) and schedule 1 clause 4 of the Act as follows:
  - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
  - (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).
  - (c) Council is to write to all landowners with an approved water bottling facility on their property to advise them of the proposal and public exhibition.
3. Consultation is required with the following public authorities /organisations under section 3.34(2)(d) of the Act and /or to comply with the requirements of relevant section 9.1 directions:
  - Department of Primary Industries – Office of Water

Each public authority /organisation is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 21 days to comment on the proposal.

Council is to consult with the NSW Rural Fire Service in accordance with section 9.1 Direction 4.4 Planning for Bushfire Protection and, if necessary, update consistency with this Direction prior to public exhibition.

4. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. Findings by the Chief Scientist & Engineer from its review of the impacts of the bottled water industry on groundwater resources in the Northern Rivers region of NSW must be considered by Council prior to plan finalisation.
6. The planning proposal authority is authorised as the local plan-making authority to exercise the functions under section 3.36(2) of the Act subject to the following:
  - (a) the planning proposal authority has satisfied all the conditions of the Gateway determination;
  - (b) the planning proposal is consistent with section 9.1 Directions or the Secretary has agreed that any inconsistencies are justified; and
  - (c) there are no outstanding written objections from public authorities.
7. The time frame for completing the LEP is to be **12 months** following the date of the Gateway determination.

Dated 13<sup>th</sup> day of May 2019.

  
**Stephen Murray**  
Executive Director, Regions  
Planning Services  
Department of Planning and  
Environment

**Delegate of the Minister for Planning  
and Public Spaces**

Mr Troy Green  
General Manager  
Tweed Shire Council  
PO Box 816  
MURWILLUMBAH NSW 2484

  
Dear Mr Green

**Planning proposal PP\_2019\_TWEED\_002\_00 to amend Tweed Local  
Environmental Plan 2014**

I am writing in response to Council's request for a Gateway determination under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act) in respect of the planning proposal to amend the Tweed Local Environmental Plan (LEP) 2014 to prohibit water bottling facilities in the RU2 Rural Landscape zone.

As delegate of the Minister for Planning and Public Spaces, I have now determined that the planning proposal should proceed subject to the conditions in the enclosed Gateway determination.

I have also agreed, as delegate of the Secretary, that the planning proposal's inconsistencies with section 9.1 Directions 2.1 Environment Protection Zones and 2.3 Heritage Conservation are justified as being of minor significance. No further approval is required in relation to these Directions.

Council may still need to obtain the agreement of the Department of Planning and Environment's Secretary to comply with the requirements of section 9.1 Direction 4.4 Planning for Bushfire Protection. Council should ensure this occurs prior to the plan being made.

I have considered the nature of Council's planning proposal and have conditioned the Gateway for Council to be authorised as the local plan-making authority.

The amending LEP is to be finalised within 12 months of the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office six weeks prior to the projected publication date. A copy of the request should be forwarded to the Department.

The state government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 3.32(2)(d) of the Act if the time frames outlined in this determination are not met.

Should you have any enquiries about this matter, I have arranged for Ms Jenny Johnson to assist you. Ms Johnson can be contacted on 6643 6414.

Yours sincerely

 13 May 2019  
**Stephen Murray**  
**Executive Director, Regions**  
**Planning Services**

Encl: Gateway determination  
Authorised plan-making reporting template